IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

THURSDAY, THE 6TH JULY 2006 / 15TH ASHADHA,1928

TRC.No. 241 of 2002(S)

TA.1112/1997 of S.T.A.T.ADDL.BENCH,ERNAKULAM
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PETITIONER: ASSESSEE APPELLANT/RESPONDENT

SPEED-A-WAY LTD., BANERJI ROAD,
ERNAKULAM, NOW AT 34/2294 A - MAMANGALAM,
PALARIVATTOM.

BY ADV. SRI.JOSE JOSEPH

RESPONDENTS: RESPONDENT/RESPONDENT

THE STATE OF KERALA.

BY GOVERNMENT PLEADER SRI. GEORGEKUTTY MATHEW

THIS TAX REVISION CASE HAVING BEEN FINALLY HEARD
ON 06/07/2006 THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

C.N.RAMACHANDRAN NAIR &
K.M.JOSEPH, JJ.

T.R.C. NO.241 OF 2002

Dated this the 6th day of July, 2006

JUDGMENT

Ramachandran Nair, J.

The question raised in this T.R.C. is against addition of 15% to the turnover returned. Petitioner is a dealer in automobile spare parts. Petitioner granted deduction in the sale bills ranging from 4 % to 22.5% without describing in the invoices what the deduction is. When proposal was made in the pre-assessment notice to make estimated addition of 15% for the wrong deductions shown in the invoices, petitioner explained the deductions as cash discount. The Officer rejected the claim which was confirmed in two rounds of appeal. When the matter came up before us, counsel for the assessee contended that the claim is towards trade discount. He has relied on two decisions of the Supreme Court in DEPUTY COMMISSIONER OF SALES TAX V. ADVANI OERIKON (P) LTD., (1980) 45 STC 32 AND KALPANA LAMPS AND COMPONENTS LTD. V. STATE OF KERALA, (2001) 3 K.L.T. 67. We are unable to accept the contention

of the assessee because trade discount has to be claimed in accordance with Rule 9(a) of the KGST Rules which provides for deduction of trade discount, when it is allowed as a trade practice. In fact, in order to claim the benefit, the assessee has to show the discount as part of price and then allow deduction in the invoice itself in accordance with trade practice followed. The assessee admittedly has not shown any discount in the sale bills but has shown various percentages of deductions without explaining what it is. In the circumstances, unexplained deductions shown in the invoices cannot be claimed or allowed as deduction towards trade discount under rule 9(a) of the KGST Rules. We find that account itself is rejected on account of deductions shown without any basis and addition of 15% is only estimate of probable omission made in assessment and confirmed in two rounds of appeal. We therefore find no ground to interfere with the order of the Tribunal.

T.R.C. is therefore dismissed.

(C.N.RAMACHANDRAN NAIR)
Judge

(K.M.JOSEPH)
Judge